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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

CHRISTOPHER LEVI GOREE,

Defendant and Appellant.

B281538

(Los Angeles County  
Super. Ct. No. BA245379)

APPEAL from an order of the Superior Court of Los Angeles County, Lance A. Ito, Judge. (Retired judge of the L.A. Sup. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Dismissed and remanded with directions.

Richard D. Miggins, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Shawn McGahey Webb and Allison H. Chung, Deputy Attorneys General, for Plaintiff and Respondent.

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Christopher Goree's sole contention on appeal concerns his life without the possibility of parole (LWOP) sentence, imposed for a murder committed when he was a juvenile. Because of the discrete nature of the issue and because we ultimately conclude that this appeal is moot, a detailed summary of Goree's crime is unnecessary.

In short, Goree brutally raped and murdered Josephine Tan in 1993, when he was 17 years old. He escaped arrest until 2002, when DNA evidence linked him to the murder. A jury found him guilty of first degree murder and found true the special circumstance allegation that Goree committed the murder while engaged in the commission of rape. (Pen. Code, § 190.2, subd. (a)(17)(c).)<sup>1</sup> On June 15, 2012, the trial court sentenced Goree to LWOP, which the trial court believed was the presumptive penalty under section 190.5. Goree appealed, and this court remanded the matter to the trial court to reconsider his sentence in light of then recent authority concerning juvenile sentencing.<sup>2</sup> (E.g., *Miller v. Alabama* (2012) 567 U.S. 460; *People v. Gutierrez* (2014) 58 Cal.4th 1354.)

On remand, the trial court allowed the People and Goree to submit extensive additional briefing and evidence relevant to sentencing. The trial court also conducted a lengthy, multiday hearing at which numerous witnesses, including defense experts, testified. After that hearing, the trial court, on January 24, 2017, reimposed LWOP, finding Goree to be "irreparably corrupt, permanently incorrigible, incapable of rehabilitation, lacking the necessary brain hardware to implement adaptive behavior on his

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<sup>1</sup> All further statutory references are to the Penal Code.

<sup>2</sup> *People v. Goree* (July 30, 2014, B243403) [nonpub. opn.].

own, [and to be] a continuing danger to small women and children. [¶] He is that rarity whose foul deeds and evil character have earned him the maximum sentence.”

Goree has appealed again, contending that his LWOP sentence is cruel and unusual under the Eighth Amendment of the United States Constitution. However, after Goree filed his appeal, our Legislature passed Senate Bill No. 394 (2016–2017 Reg. Sess.) (Sen. Bill 394). Sen. Bill 394, which became effective January 1, 2018, amended section 3051 to provide that a person sentenced to LWOP for an offense before the person had attained 18 years of age “shall be eligible for release on parole by the board during his or her 25th year of incarceration at a youth offender parole hearing.” (§ 3051, subd. (b)(4).)

Under section 3051, Goree is entitled to a youth offender parole hearing in the 25th year of his incarceration. Stated otherwise, Goree is serving a 25 years to life sentence which includes a meaningful opportunity for release in the 25th year of his incarceration. Section 3051 thus cures any constitutional infirmity in Goree’s sentence. (See *Montgomery v. Louisiana* (2016) \_\_ U.S. \_\_ [136 S.Ct. 718, 736] [Wyoming law permitting juvenile murderers to be considered for parole cured constitutional problem].) The issue Goree has raised on appeal is therefore moot. Any ruling from this court would have no practical effect or provide him with effective relief. (*Lincoln Place Tenants Assn. v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 454.) Sen. Bill 394 affords Goree the only relief he could have been given at resentencing.

Nonetheless, remand is necessary to recalculate Goree’s conduct credits. The trial court initially found that Goree was entitled to 5,347 days of actual custody but was not entitled to

conduct credit because he was convicted of murder. When defense counsel pointed out that when Goree committed the murder in 1993 he was eligible for conduct credits, the court agreed. However, the record does not show that the credits award was corrected. The People concede, and we agree, that Goree is entitled to conduct credits. Remand for that limited purpose is therefore proper.

### **DISPOSITION**

The matter is remanded for the limited purpose of recalculating Christopher Goree's conduct credits. In all other respects the appeal is dismissed as moot.

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DHANIDINA, J.

We concur:

EDMON, P. J.

EGERTON, J.